

# JOURNAL OF THE HOUSE

## EIGHTY-SEVENTH SESSION

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EIGHTEENTH DAY

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STATE OF SOUTH DAKOTA  
House of Representatives, Pierre  
Thursday, February 9, 2012

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Father Mark McCormick, followed by the Pledge of Allegiance led by House pages Emily Zietlow and Henry Zietlow.

Roll Call: All members present.

### APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the seventeenth day.

In the House Journal of the sixteenth day the following correction should be made:

On page 332, line 21, delete "1080,".

All additional errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Val Rausch, Chair

Which motion prevailed.

**REPORTS OF STANDING COMMITTEES**

MR. SPEAKER:

The Committee on Education respectfully reports that it has had under consideration HB 1234 and returns the same with the recommendation that said bill be amended as follows:

1234cd

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. Beginning in the 2013-2014 school year, there is hereby created the math and science teacher incentive program within the Department of Education to provide funds to public school districts for the purpose of providing rewards to attract certified teachers who teach in math and science subject areas in middle school and high school or who are certified with a math or science specialist endorsement which they are utilizing for any grade, kindergarten through twelve. By January 31, 2013, the South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 establishing which courses qualify as math and science courses for purposes of the program. For purposes of this Act, math and science courses are those courses established by the Board of Education pursuant to this section. For purposes of this Act, middle school is a school consisting of any combination of two or more consecutive grades, five to eight, inclusive, and high school is a school consisting of any combination of three or more consecutive grades, including ninth grade to twelfth grade, inclusive.

Section 2. Participation in the math and science teacher incentive program is voluntary for teachers, and incentive rewards are to supplement but not replace what a teacher receives under a contract between the teacher and the school district or a collective bargaining agreement between a district and the district's teachers. No collective bargaining agreement between a district and the district's teachers may limit the ability of a teacher to qualify for or receive an incentive reward. Nothing in sections 1 to 6, inclusive, of this Act is intended to create a contractual right or property right in the math and science teacher incentive program.

Section 3. The Department of Education shall provide application forms for teachers wishing to participate in the math and science teacher incentive program. A teacher wishing to participate in the program shall complete and sign the form and provide the form to the business office of the school district by the close of business on October first of the teacher's first year of teaching, pursuant to the requirements of section 4 of this Act, to be eligible for the program. A teacher does not need to reapply each year unless the teacher switches employment to another school district. Completed applications are a public record pursuant to chapter 1-27, but personal information in the applications may be redacted as allowed by that chapter.

Section 4. To be eligible for the math and science teacher incentive program, a teacher shall fulfill the following requirements:

- (1) Comply with section 3 of this Act;

1       (2)    In the 2013-2014 school year or a subsequent school year, be in the teacher's first  
2            year of:

3            (a)    Teaching math or science courses in middle school or high school; or

4            (b)    Utilizing a math or science specialist endorsement for any grade, kindergarten  
5                    through twelve;

6       (3)    Be in full time status for the entire school year; and

7       (4)    If subsection (2)(a) applies, the teacher must also be assigned to teach math or  
8            science courses, or a combination of such courses, in middle school or high school  
9            for at least fifty-one percent of a full-time equivalent position's assignments  
10           submitted in the annual teacher data collection pursuant to § 13-3-51 and any rules  
11           promulgated pursuant thereto, and be currently certified with a middle school or high  
12           school endorsement to teach each course.

13       No teacher shall be eligible for the math and science teacher incentive program for more  
14       than a total of five years.

15       Section 5. By March first of each year, the school board of each district shall submit to the  
16       Department of Education a copy of the application of each teacher eligible for the math and  
17       science teacher incentive program for the current school year pursuant to the requirements of  
18       this Act. The Department of Education may require additional information from the district as  
19       necessary to verify each teacher's eligibility for the reward. The department may refuse to issue  
20       a reward for any teacher for whom the information required by this section is not provided by  
21       the deadline.

22       Section 6. The amount of the reward under the math and science teacher incentive program  
23       is nine thousand four hundred twenty-five dollars per eligible teacher to be distributed as  
24       described in this section. No later than May first of each year, at the same time that foundation  
25       program state aid is distributed to school districts pursuant to §§ 13-13-10.1 to 13-13-41,  
26       inclusive, the secretary of the Department of Education shall distribute funds for the math and  
27       science teacher incentive program for teachers that qualify pursuant to this Act. These funds  
28       shall be distributed in lump sum payments.

29       Subject to the requirements of this Act, the department shall pay to the school district nine  
30       thousand four hundred twenty-five dollars per eligible teacher in that district. Within thirty days  
31       of receipt from the department, the school district shall distribute the funds as follows:

32       (1)    Eight thousand dollars shall be paid to each eligible teacher in the district; and

33       (2)    One thousand four hundred twenty-five dollars may be retained by the district to pay  
34            the district's share of applicable federal taxes, the district's share of contribution to  
35            the South Dakota Retirement System, and administrative costs.

Section 7. Beginning in the 2014-2015 school year, there is hereby created the top teachers reward program within the Department of Education to provide funds to public school districts for the purpose of providing top teacher rewards for certified teachers.

Section 8. Participation in the top teachers reward program is voluntary for teachers, and such rewards shall supplement but not replace what a teacher receives under a contract between the teacher and the school district or a collective bargaining agreement between a district and the district's teachers. No collective bargaining agreement between a district and the district's teachers may limit the ability of a teacher to qualify for or receive a top teacher reward. Nothing in sections 7 to 15, inclusive, of this Act is intended to create a contractual right or property right in the top teachers reward program.

Section 9. In each school year, up to twenty percent of each school district's full-time equivalent certified teaching positions, as measured by the district's annual teacher data collection pursuant to § 13-3-51 and any rules promulgated pursuant to that section, shall be eligible to receive a top teacher reward, subject to the requirements of this Act. The Department of Education shall multiply the number of full-time equivalent certified teaching positions in the district by twenty percent. If this calculation results in a fraction, the maximum number of eligible positions may not exceed the next lowest whole number. If there are fewer than five full-time equivalent certified teaching positions in a school district, the maximum number of eligible positions shall be one.

Section 10. No later than May first of each year, at the same time that foundation program state aid is distributed to a school district pursuant to §§ 13-13-10.1 to 13-13-41, inclusive, the secretary of the Department of Education shall inform each school district of the number of eligible positions in that district for the current school year, based on the calculation in section 9 of this Act, and distribute to each school district five thousand seven hundred dollars per eligible position. These funds shall be distributed in lump sum payments. The school district shall retain these funds until distribution pursuant to section 11 of this Act.

Section 11. No later than September first of each year, the school district shall distribute the funds received pursuant to section 10 of this Act as follows:

- (1) Five thousand dollars shall be paid to each teacher selected for a top teacher reward pursuant to section 14 of this Act for the previous school year; and
- (2) Seven hundred dollars may be retained by the district to pay the district's share of applicable federal taxes, the district's share of contribution to the South Dakota Retirement System, and administrative costs.

Any funds received pursuant to section 10 of this Act which are not distributed according to this section shall be returned to the Department of Education within thirty days.

Section 12. The Department of Education shall provide application forms for teachers wishing to participate in the top teachers reward program. A teacher wishing to participate in the program shall complete and sign the form and provide the form to the business office of the school district by the close of business on October first to be eligible for the program for that school year. A teacher wishing to participate shall submit a new application for each school

1 year. Completed applications are a public record pursuant to chapter 1-27, but personal  
2 information in the applications may be redacted pursuant to that chapter.

3 Section 13. A participating teacher shall be full-time and receive a distinguished rating, as  
4 referenced in section 28 of this Act, on the teacher's most recent evaluation to be eligible for a  
5 top teacher reward. In addition, a distinguished teacher's selection for the reward may be based  
6 on consideration of the following factors as determined by the school board:

- 7 (1) Mentoring of less experienced teachers;
- 8 (2) Curriculum development;
- 9 (3) Assessment development;
- 10 (4) Data analysis;
- 11 (5) Service to the local district, state, or national committees or task forces;
- 12 (6) Leadership in a professional learning community;
- 13 (7) National board certification;
- 14 (8) Other leadership activities or recognitions; and
- 15 (9) Other additional criteria as determined by the school board.

16 Section 14. No later than August first of each year, the school board of each school district  
17 shall determine which participating teachers, if any, are selected to receive top teacher rewards  
18 for the previous school year according to the criteria in section 13 of this Act. The number of  
19 teachers selected may not exceed the number of eligible positions referenced in sections 9 and  
20 10 of this Act.

21 Section 15. The Department of Education may require each school district to provide any  
22 information necessary to verify the district's compliance with sections 10 to 14, inclusive, of this  
23 Act. Upon a finding of noncompliance, the department may require the district to return any  
24 funds distributed contrary to the requirements of this Act.

25 Section 16. Notwithstanding any other provisions of this Act, public school districts may  
26 opt out of the top teacher reward program by providing written notice to the Department of  
27 Education. The notice shall be approved by a majority of the school board and signed by the  
28 school board president. The department shall provide forms for this purpose. Beginning in 2014,  
29 the notice shall be postmarked no earlier than January first, and no later than January thirty-first,  
30 of each year in order to be effective for the next school year. The district shall provide a separate  
31 form for each school year for which the district desires to opt out. If a school district fails to  
32 follow the requirements of this section, the attempt to opt out is void, and the district shall  
33 comply with the requirements of the top teacher reward program.

1 If a district opts out pursuant to this section, the teachers employed in the district are not  
2 eligible to participate in the top teacher reward program. The district shall provide written notice  
3 to each certified teacher of the teacher's ineligibility for the program before executing a teaching  
4 contract with the teacher for the school year for which the opt out is effective.

5 School districts may not opt out of the math and science teacher incentive program  
6 established pursuant to this Act.

7 Section 17. If a school district opts out pursuant to section 16 of this Act, all funds which  
8 the district would have been eligible to receive for the top teacher program pursuant to this Act  
9 shall be redistributed as follows:

10 (1) To obtain the redistribution amount, the Department of Education shall calculate the  
11 number of positions that would have been eligible for the top teacher reward program  
12 in each opt out district pursuant to section 9 of this Act, and multiply that calculation  
13 by five thousand seven hundred dollars;

14 (2) No later than May first of each year, at the same time that foundation program state  
15 aid is distributed to a school district pursuant to §§ 13-13-10.1 to 13-13-41, inclusive,  
16 the department shall allocate the redistribution amount, on a pro rata basis, to each  
17 public school district that did not opt out of the top teacher reward program or is  
18 participating in a local teacher reward program pursuant to sections 18 to 25,  
19 inclusive, of this Act. Each district's pro rata share of the redistribution amount shall  
20 be based on the number of full-time equivalent certified teacher positions in the  
21 district, as measured by the district's annual teacher data collection pursuant to  
22 § 13-3-51 and any rules promulgated pursuant to that section; and

23 (3) No later than September first of each year, the redistribution amount received by each  
24 district pursuant to subdivision (2) shall be distributed equally among all teachers  
25 receiving top teacher rewards in the district pursuant to sections 7 to 15, inclusive,  
26 of this Act, or among all teachers receiving local teacher rewards pursuant to sections  
27 18 to 25, inclusive, of this Act, but each district may withhold an amount necessary  
28 to pay the district's share of applicable federal taxes, the district's share of  
29 contributions to the South Dakota Retirement System, and administrative costs. Any  
30 funds not distributed according to this subdivision shall be returned to the  
31 Department of Education within thirty days.

32 Section 18. Notwithstanding any other provision of this Act, a public school district may  
33 create a local teacher reward plan to act as a substitute for the top teacher reward program  
34 beginning in the 2014-2015 school year. If the local teacher reward plan is developed in  
35 compliance with sections 18 to 25, inclusive, of this Act, the district may utilize the local  
36 teacher reward plan to provide the district with the flexibility to use the funds that would  
37 otherwise be provided to the district through the top teachers reward program.

38 Participation in the local teacher reward plan is voluntary. Rewards shall supplement but not  
39 replace what a teacher receives under a contract between the teacher and the school district or  
40 a collective bargaining agreement between a district and the district's teachers. No collective  
41 bargaining agreement between a district and the district's teachers may limit the ability of a

1 teacher to qualify for or receive a local teacher reward. Nothing in sections 18 to 25, inclusive,  
2 of this Act, is intended to create a contractual right or property right in local teacher rewards.

3 Teachers in the district may not participate in the top teacher reward program for any school  
4 year for which the district has adopted a local teacher reward plan. The district shall provide  
5 written notice to each certified teacher of the teacher's ineligibility for the top teacher reward  
6 program and provide a copy of the district's local teacher reward plan to each certified teacher  
7 before executing a teaching contract with the teacher for the school year for which the local  
8 teacher reward plan is effective.

9 Section 19. The local teacher reward plan shall reward certified teachers in the district based  
10 upon the following criteria:

- 11 (1) Student achievement and teacher evaluations pursuant to sections 28 to 32, inclusive,  
12 of this Act; or
- 13 (2) Market based needs of the school district based upon local priorities and unique  
14 circumstances in the school district.

15 Section 20. There is hereby established the Local Teacher Reward Plan Advisory Council.  
16 The council shall provide input in developing one or more model local teacher reward plan  
17 applications based upon the criteria in section 19 of this Act. The work group shall consist of  
18 the following members:

- 19 (1) Six principals and six superintendents: two each from an elementary school, two each  
20 from a middle school, and two each from a high school;
- 21 (2) Three teachers: one from an elementary school, one from a middle school, and one  
22 from a high school; and
- 23 (3) Two school board members.

24 Section 21. The Board of Education shall promulgate rules, pursuant to chapter 1-26,  
25 establishing the application form for the local teacher reward plan, further guidelines for district  
26 applications based on the criteria in section 19 of this Act, a system to monitor whether each  
27 participating school district is complying with the local teacher reward plan, and penalties for  
28 noncompliance.

29 Section 22. There is hereby established the Local Teacher Reward Plan Oversight Board.  
30 The board shall consist of the following members:

- 31 (1) One member of the Senate appointed by the president pro tempore of the Senate;
- 32 (2) One member of the House of Representatives appointed by the speaker of the House  
33 of Representatives;
- 34 (3) One representative of the business community appointed by the Governor;

1       (4)    One representative of an educational association appointed by the Governor; and

2       (5)    One former teacher appointed by the Governor.

3       Section 23. A school district shall submit the local teacher reward plan application to the  
4 Department of Education no later than January thirty-first of each year, beginning in 2014, to  
5 be eligible to apply the local teacher reward plan to the upcoming school year. The district must  
6 submit a separate local teacher reward plan application for each school year.

7       By March fifteenth of each year, the Local Teacher Reward Plan Oversight Board shall  
8 review all applications to determine compliance with this Act, and any rules promulgated  
9 thereto, and forward the applications to the secretary of education with the board's  
10 recommendation. The board or the secretary may request additional information from the district  
11 as part of the review of the application. By April first of each year, the secretary shall inform  
12 each district whether the district's local teacher reward plan has been approved for the upcoming  
13 school year. If the application is denied, the district may not follow a local teacher reward plan  
14 and shall comply with the requirements of the top teacher reward program for the upcoming  
15 school year.

16       Section 24. If a district's local teacher reward plan is approved, the Department of Education  
17 shall calculate the number of positions in the district that would have been eligible for the top  
18 teacher reward program pursuant to section 9 of this Act and multiply that calculation by five  
19 thousand seven hundred dollars. No later than May first of each year, at the same time that  
20 foundation program state aid is distributed to the district pursuant to §§ 13-13-10.1 to 13-13-41,  
21 inclusive, the secretary of the Department of Education shall distribute this amount to the  
22 district in a lump sum payment.

23       Section 25. No later than September first of each year, the district shall distribute the funds  
24 received pursuant to section 24 of this Act to each certified teacher selected for a reward under  
25 the local teacher reward program for the previous school year, but the district may withhold an  
26 amount necessary to pay the district's share of applicable federal taxes, the district's share of  
27 contributions to the South Dakota Retirement System, and administrative costs. Any funds not  
28 distributed according to this section shall be returned to the Department of Education within  
29 thirty days.

30       Section 26. A teacher may apply for both the math and science teacher incentive program  
31 and the top teachers reward program established pursuant to this Act or both the math and  
32 science teacher incentive program and the local teacher reward plan established pursuant to this  
33 Act.

34       Section 27. That § 13-42-34 be amended to read as follows:

35       13-42-34. Any public school district seeking state accreditation shall evaluate the  
36 performance of each certified teacher in years one ~~through~~ to three, inclusive, not less than  
37 annually, and each certified teacher in the fourth contract year or beyond, not less than every  
38 other year.



1        ~~Each~~ For the 2012-2013 school year and the 2013-2014 school year, each school district  
2 ~~shall may~~ adopt procedures for evaluating the performance of certified teachers employed by  
3 the school district that:

- 4        (1)    Are based on the minimum professional performance standards established by the  
5               Board of Education pursuant to § 13-42-33;
- 6        (2)    Require multiple measures;
- 7        (3)    Serve as the basis for programs to increase professional growth and development of  
8               certified teachers; and
- 9        (4)    Include a plan of assistance for any certified teacher, who is in the fourth or  
10             subsequent year of teaching, and whose performance does not meet the school  
11             district's performance standards.

12        Section 28. That § 13-42-34 be amended to read as follows:

13        13-42-34. Any public school district seeking state accreditation shall evaluate the  
14 performance of each certified teacher ~~in years one through three not less than annually, and each~~  
15 ~~certified teacher in the fourth contract year or beyond, not less than every other year. Beginning~~  
16 in the 2014-2015 school year, each certified teacher shall be evaluated on an annual basis.

17        Each school district shall adopt the model evaluation instrument required by section 30 of  
18 this Act and procedures for evaluating the performance of certified teachers employed by the  
19 school district that:

- 20        (1)    Are based on the minimum professional performance standards established by the  
21               Board of Education pursuant to § 13-42-33;
- 22        (2)    Require multiple measures of performance as follows:
  - 23            (a)    Fifty percent of the evaluation of a teacher shall be based on quantitative  
24               measures of student growth, based on a single year or multiple years of data.  
25               This quantitative data shall be based on reports of student performance on  
26               state validated assessments established pursuant to § 13-3-55. For those  
27               teachers in grades and subjects for which there is no state-validated assessment  
28               for the quantitative portion of the evaluation, teachers shall demonstrate  
29               success in improving student achievement using objective measures, which  
30               can include portfolio assessments, end-of-course exams, or other district  
31               approved assessments which demonstrate student growth; and
  - 32            (b)    Fifty percent of the evaluation of a teacher shall be based on qualitative,  
33               observable, evidence-based characteristics of good teaching and classroom  
34               practices as further defined in the model evaluation instrument referenced in  
35               section 30 of this Act. Districts may collect additional evidence using any of  
36               the following if not required by the model evaluation instrument:

1                   (i)    Classroom drop-ins;

2                   (ii)   Parent surveys;

3                   (iii) Student surveys;

4                   (iv)   Portfolios; or

5                   (v)    Peer review;

6       (3)    Serve as the basis for programs to increase professional growth and development of  
7            certified teachers; and

8       (4)    Include a plan of assistance for any certified teacher, ~~who is in the fourth or~~  
9            ~~subsequent year of teaching, and~~ whose performance does not meet the school  
10           district's performance standards; and

11       (5)    Are based on the following four-tier rating system:

12           (a)   Distinguished;

13           (b)   Proficient;

14           (c)   Basic; and

15           (d)   Unsatisfactory.

16       Section 29. The provisions of section 28 of this Act are effective July 1, 2014.

17       Section 30. That § 13-42-35 be amended to read as follows:

18       13-42-35. A work group appointed by the secretary of education shall provide input in  
19       developing the standards for defining the four-tier rating system required by section 28 of this  
20       Act and shall develop in developing a model evaluation instrument that may shall be used by  
21       school districts for the 2014-2015 school year and subsequent school years. The work group  
22       shall consist of the following members:

23       (1)    Six teachers: two from an elementary school, two from a middle school, and two  
24            from a high school;

25       (2)    Three principals: one from an elementary school, one from a middle school, and one  
26            from a high school;

27       (3)    Two superintendents;

28       (4)    Two school board members;

29       (5)    Four parents who have students in various levels of the K-12 system:

1       (6)    One representative of the South Dakota Education Association;

2       (7)    One representative of the School Administrators of South Dakota; and

3       (8)    One representative of the Associated School Boards of South Dakota.

4       Section 31. That chapter 13-42 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6       Pursuant to chapter 1-26, the South Dakota Board of Education shall promulgate rules  
7 establishing standards for defining the four-tier rating system required by section 28 of this Act  
8 and adopting the model evaluation instrument referenced in section 30 of this Act.

9       Section 32. That chapter 3-18 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11       Beginning with the 2014-2015 school year, the procedures for evaluation and the model  
12 evaluation instrument referenced in sections 28 to 31, inclusive, of this Act may not be the  
13 subject of any collective bargaining agreement between a district and the district's teachers.

14       Section 33. The Board of Education shall promulgate rules pursuant to chapter 1-26 to  
15 establish minimum professional performance standards for certified principals in South Dakota  
16 public schools, and to establish best practices for the evaluation of the performance of certified  
17 principals that shall be used by individual school districts. The South Dakota Board of  
18 Education shall promulgate rules pursuant to chapter 1-26 establishing standards for defining  
19 the four-tier rating system required by section 34 of this Act and adopting the model evaluation  
20 instrument referenced in section 35 of this Act.

21       Section 34. Beginning in the 2014-2015 school year, any public school district seeking state  
22 accreditation shall evaluate the performance of each certified principal not less than every other  
23 year.

24       Each school district shall adopt the model evaluation instrument required by section 35 of  
25 this Act and procedures for evaluating the performance of certified principals employed by the  
26 school district that:

27       (1)    Are based on the minimum professional performance standards established by the  
28 Board of Education pursuant to section 33 of this Act;

29       (2)    Require multiple measures of performance;

30       (3)    Serve as the basis for programs to increase professional growth and development of  
31 certified principals;

32       (4)    Include a plan of assistance for any certified principal whose performance does not  
33 meet the school district's performance standards; and

1       (5)    Are based on the following four-tier rating system:

2           (a)   Distinguished;

3           (b)   Proficient;

4           (c)   Basic; and

5           (d)   Unsatisfactory.

6       Section 35. A work group appointed by the secretary of education shall provide input in  
7   developing the standards referenced in section 33 of this Act, the four-tier rating system required  
8   by section 34 of this Act, and in developing a model instrument for principal evaluation that  
9   shall be used by school districts for the 2014-2015 school year and each school year thereafter.  
10   The work group shall consist of the following members:

11       (1)   Six principals: two from an elementary school, two from a middle school, and two  
12       from a high school;

13       (2)   Three teachers: one from an elementary school, one from a middle school, and one  
14       from a high school;

15       (3)   Two superintendents;

16       (4)   Two school board members;

17       (5)   Four parents who have students in various levels of the K-12 system;

18       (6)   One representative of the South Dakota Education Association;

19       (7)   One representative of the School Administrators of South Dakota; and

20       (8)   One representative of the Associated School Boards of South Dakota.

21       Section 36. All persons conducting teacher or principal evaluations required by sections 28  
22   to 35, inclusive, of this Act shall participate in training conducted by the Department of  
23   Education before conducting the evaluations.

24       Section 37. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as  
25   follows:

26       For purposes of this chapter, the term, tenured teacher, means a teacher who is in or beyond  
27   the fourth consecutive term of employment as a teacher with the school district prior to July 1,  
28   2012. If, prior to July 1, 2012, the school district and the teacher have entered into a contract  
29   pursuant to §§ 13-43-4 and 13-43-5 for the teacher's fourth consecutive term of employment  
30   with the district or a subsequent consecutive term of employment with the district, then that  
31   teacher is a tenured teacher for purposes of this chapter. The term, nontenured teacher, means  
32   a teacher who is not yet in or beyond the fourth consecutive term of employment as a teacher

1 with the school district prior to July 1, 2012. Any teacher who is not in or beyond the fourth  
2 consecutive term of employment with the school district prior to July 1, 2012, may not acquire  
3 continuing contract status under this chapter.

4 Section 38. That § 13-43-6 be amended to read as follows:

5 13-43-6. The contract shall specify the date at or about which the school shall begin, the  
6 term of employment, the wages per month, and the time of payment ~~thereof; such of wages.~~ The  
7 contract shall be signed in duplicate and one copy filed in the office of the business manager and  
8 the other retained by the teacher. ~~Such~~ The contract may be issued covering any period of ~~years;~~  
9 ~~not to exceed three~~ employment up to one year, over which a teacher holds a certificate which  
10 ~~will~~ shall remain valid without renewal.

11 Section 39. That § 13-43-6.1 be amended to read as follows:

12 13-43-6.1. A tenured or nontenured teacher may be terminated, by the school board, at any  
13 time for just cause, including breach of contract, poor performance, incompetency, gross  
14 immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of any  
15 policy or regulation of the school district. ~~A school district may nonrenew a teacher who is in~~  
16 ~~or beyond the fourth consecutive term of employment as a teacher with the school district~~  
17 ~~pursuant to § 13-43-6.3 for just cause, including breach of contract, poor performance,~~  
18 ~~incompetency, gross immorality, unprofessional conduct, insubordination, neglect of duty, or~~  
19 ~~the violation of any policy or regulation of the school district.~~

20 Section 40. That § 13-43-6.2 be amended to read as follows:

21 13-43-6.2. If nonrenewal of a tenured teacher is contemplated under ~~§ 13-43-6.1~~ § 13-43-  
22 6.3, the superintendent or chief executive officer shall give written notice of an intention to  
23 recommend nonrenewal to the teacher and the school board; a written statement of the reasons  
24 for the recommendation; access to the employment records of the teacher; the opportunity to the  
25 teacher for a hearing before the school board to present reasons in person or in writing why the  
26 nonrenewal should not occur; and the opportunity to be represented. The teacher shall request  
27 the hearing as provided in § 13-43-6.9. The school board shall conduct the hearing not sooner  
28 than fourteen days, nor later than forty-five days, after receipt of the teacher's request for  
29 hearing. The parties may waive the time limitations provided for in this section.

30 Section 41. That § 13-43-6.3 be amended to read as follows:

31 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a~~  
32 ~~teacher with the school district, a~~ A school board may or may not renew the teacher's contract  
33 of a nontenured teacher. The superintendent or chief executive officer shall give written notice  
34 of nonrenewal by April fifteenth but is not required to give further process or a reason for  
35 nonrenewal.

36 After a teacher is in or beyond the fourth consecutive term of employment as a teacher with  
37 the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract.  
38 A school board may refuse to renew the teacher's contract of a tenured teacher for just cause,  
39 including breach of contract, poor performance, a rating of unsatisfactory on two consecutive

1 evaluations pursuant to section 28 of this Act, incompetency, gross immorality, unprofessional  
2 conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the  
3 school district. On or before April fifteenth, the superintendent or chief executive officer shall  
4 notify the tenured teacher and the school board in writing of the recommendation to not renew  
5 the teacher's contract.

6 Acceptance by ~~the~~ a tenured or nontenured teacher of an offer from the district to enter into  
7 a new contract with the teacher shall be in the manner specified in the offer. Failure of the  
8 teacher to accept the offer in the manner specified constitutes the termination of the existing  
9 contract between the teacher and the district at the end of its term.

10 Section 42. That § 13-43-6.4 be amended to read as follows:

11 13-43-6.4. Notwithstanding ~~§§ 13-43-6.1 to~~ §§ 13-43-6.2 and 13-43-6.3, ~~inclusive~~, if a  
12 teacher's contract is not renewed due to a reduction in staff, only written notice is required,  
13 which shall be provided by the school board to the teacher by April fifteenth.

14 Section 43. That § 13-43-6.6 be amended to read as follows:

15 13-43-6.6. Although a collective bargaining agreement between a district and its teachers  
16 may set forth specific additional grounds for termination or set forth provisions as to the  
17 procedure or notice, no agreement may limit the district's right to terminate or refuse to renew  
18 the contract of a tenured or nontenured teacher for the grounds set forth in §§ 13-43-6.1 to 13-  
19 43-6.3, inclusive. No agreement may limit the protection afforded to a teacher under § 13-43-  
20 6.5.

21 Section 44. For purposes of this Act, the term, school year, means the regular school term  
22 as referenced in § 13-26-2.

23 Section 45. That § 13-3-73 be repealed.

24 ~~—13-3-73. There is hereby created the teacher compensation assistance program within the~~  
25 ~~Department of Education to provide funds to school districts for the purpose of assisting school~~  
26 ~~districts with teacher compensation. School districts are eligible to receive funds from the~~  
27 ~~teacher compensation assistance program based on their fall enrollment numbers. The~~  
28 ~~department shall provide four-fifths of the funds for the teacher compensation assistance~~  
29 ~~program to each participating school district. The Board of Education shall promulgate rules,~~  
30 ~~pursuant to chapter 1-26, to create an oversight board appointed by the secretary of education~~  
31 ~~for approval of applications as well as guidelines for district applications based on district~~  
32 ~~instructional goals, market compensation or other specific district requirements as approved by~~  
33 ~~the department. Participation in the program is discretionary. District applications shall be~~  
34 ~~approved by the local board of education. The applications shall be reviewed by the teacher~~  
35 ~~compensation assistance program oversight board and shall be recommended to the Board of~~  
36 ~~Education for final approval.~~

37 ~~—The Legislature shall review the teacher compensation assistance program in 2012 to~~  
38 ~~determine its effectiveness and to determine whether to continue the program.~~

1       Section 46. That § 13-3-74 be repealed.

2       ~~—13-3-74. The Teacher Compensation Assistance Program Oversight Board shall annually~~  
3 ~~monitor the progress of participating school districts with their teacher compensation assistance~~  
4 ~~plans, and submit its findings to the Board of Education.~~

5       Section 47. That § 13-3-74.1 be repealed.

6       ~~—13-3-74.1. There is hereby established the Teacher Compensation Assistance Program~~  
7 ~~Advisory Council. The council shall be under the supervision of the Department of Education.~~  
8 ~~The speaker of the House of Representative shall appoint three members of the House of~~  
9 ~~Representatives to the council, including at least one member from each political party, and the~~  
10 ~~president pro tempore of the Senate shall appoint three members of the Senate to the council,~~  
11 ~~including at least one member from each political party. The Governor shall appoint the~~  
12 ~~remaining members of the council, including at least one teacher, one school administrator, and~~  
13 ~~one representative of a statewide education organization.~~

14       Section 48. That § 13-3-74.2 be repealed.

15       ~~—13-3-74.2. The council shall examine how teacher quality and teacher salaries in the state~~  
16 ~~can be enhanced, and how the funds appropriated in fiscal year 2010 and in subsequent fiscal~~  
17 ~~years by the state for the teacher compensation assistance program established in § 13-3-73 can~~  
18 ~~best be utilized to assist in that effort. The council shall consider a variety of issues surrounding~~  
19 ~~teachers including market compensation, a tiered licensure system, a system for evaluating~~  
20 ~~teachers, mentoring and induction programs for teachers, and continuing contracts for teachers.~~

21       Section 49. That § 13-3-74.3 be repealed.

22       ~~—13-3-74.3. The council shall complete its work and the secretary of education shall provide~~  
23 ~~its recommendations to the Governor and to the Executive Board of the Legislative Research~~  
24 ~~Council no later than November 15, 2008.~~

25       Section 50. That § 13-3-75 be repealed.

26       ~~—13-3-75. The South Dakota Board of Education shall promulgate rules pursuant to chapter~~  
27 ~~1-26 establishing the application process; application timelines; the guidelines for district~~  
28 ~~applications based on school district instructional goals or market compensation; and a system~~  
29 ~~to monitor the progress of participating school districts with their compensation assistance plans~~  
30 ~~and to ensure that each participating school district is complying with the plan as submitted to~~  
31 ~~the board.~~

32       Section 51. That § 13-3-83.1 be repealed.

33       ~~—13-3-83.1. Once all the school districts with approved applications have received their~~  
34 ~~funding pursuant to § 13-3-73, the Department of Education may set aside from any funds~~  
35 ~~remaining, a sum not to exceed one hundred thousand dollars from the teacher compensation~~  
36 ~~assistance program appropriation for the purpose of providing grants to educational cooperatives~~

1 ~~and multi-district centers that employ teachers for public schools. The South Dakota Board of~~  
2 ~~Education may promulgate rules, pursuant to chapter 1-26, to establish the granting process."~~

3 1234cf

4 On the previously adopted amendment, 1234cd, delete Section 40 and the first five  
5 lines of Section 41, and insert the following:

6 Section 40. That § 13-43-6.2 be amended to read as follows:

7 13-43-6.2. If nonrenewal of a tenured or nontenured teacher is contemplated under § ~~13-43-~~  
8 ~~6.1~~ § 13-43-6.3, the superintendent or chief executive officer shall give written notice of an  
9 intention to recommend nonrenewal to the teacher and the school board; a written statement of  
10 the reasons for the recommendation for any tenured teacher; access to the employment records  
11 of the teacher; the opportunity to the teacher for a hearing ~~before the school board~~ to present  
12 reasons in person or in writing why the nonrenewal should not occur; and the opportunity to be  
13 represented. The teacher shall request the hearing as provided in § 13-43-6.9. The school board  
14 shall contract with the Office of Hearing Examiners pursuant to § 1-26D-11 to conduct the  
15 hearing not sooner than fourteen days, nor later than forty-five days, after receipt of the teacher's  
16 request for hearing. The parties may waive the time limitations provided for in this section. The  
17 hearing examiner, after hearing evidence in the matter, shall make proposed findings of fact and  
18 conclusions of law, and a proposed decision. The superintendent or chief executive officer, with  
19 the consent of the school board, may accept or reject the decision of the hearing examiner, and  
20 the decision of the superintendent or chief executive officer is final without further action. The  
21 school district and the teacher requesting the hearing shall each pay half of the cost of the  
22 services provided by the Office of Hearing Examiners.

23 Section 41. That § 13-43-6.3 be amended to read as follows:

24 13-43-6.3. ~~Until a teacher is in or beyond the fourth consecutive term of employment as a~~  
25 ~~teacher with the school district, a~~ A school board may or may not renew the teacher's contract  
26 of a nontenured teacher. The superintendent or chief executive officer shall give written notice  
27 of nonrenewal by April fifteenth but is not required to give ~~further process or~~ a reason for  
28 nonrenewal.

29 And that as so amended said bill do pass.

30 Respectfully submitted,  
31 Thomas J. Brunner, Chair

32 Also MR. SPEAKER:

33 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
34 under consideration HB 1107, 1188, and 1198 and returns the same with the recommendation  
35 that said bills do pass.



1 Also MR. SPEAKER:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
3 under consideration HB 1080 and returns the same with the recommendation that said bill be  
4 amended as follows:

5 1080ra

6 On page 1, after line 14 of the printed bill, insert:

7 " Section 2. That subdivision (21) of § 41-1-1 be amended to read as follows:

8 (21) "Predator/varmint," ~~coyote, gray fox, red fox, skunk,~~ gopher, ground squirrel,  
9 chipmunk, jackrabbit, marmot, porcupine, crow, and prairie dog;"

10 And that as so amended said bill do pass.

11 Also MR. SPEAKER:

12 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
13 under consideration HB 1210 which was tabled.

14 Also MR. SPEAKER:

15 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
16 under consideration HB 1231, 1252, and 1262 which were deferred to the 41<sup>st</sup> Legislative Day.

17 Respectfully submitted,  
18 Kim Vanneman, Chair

19 Also MR. SPEAKER:

20 The Committee on Health and Human Services respectfully reports that it has had under  
21 consideration HB 1246 and returns the same with the recommendation that said bill be amended  
22 as follows:

23 1246ma

24 On page 1 of the printed bill, delete lines 3 to 12, inclusive.

25 On page 1, line 14, after "bisphenol A" insert "that is intended for use as a baby bottle or  
26 spill-proof cup used primarily by children under the age of three".

1 On page 2, delete lines 1 to 5, inclusive, and insert:

2     "    Section 3. This Act does not apply to food or beverage containers intended for disposal after  
3    initial use."

4 And that as so amended said bill do pass.

5 Respectfully submitted,  
6 Jamie Boomgarden, Chair

7 Also MR. SPEAKER:

8       The Committee on Taxation respectfully reports that it has had under consideration  
9   HB 1156 and returns the same with the recommendation that said bill do pass.

10 Also MR. SPEAKER:

11 The Committee on Taxation respectfully reports that it has had under consideration  
12 HB 1209 and returns the same with the recommendation that said bill be amended as follows:

13 1209fc

14 On page 1, line 8, of the printed bill, after "." insert "However, this exemption does not  
15 apply to the repair or maintenance of homebuilt aircraft.".

16 On page 1, line 15, after "." insert "However, this exemption does not apply to the repair  
17 or maintenance of homebuilt aircraft."

18 And that as so amended said bill do pass.

19 Also MR. SPEAKER:

20 The Committee on Taxation respectfully reports that it has had under consideration  
21 HB 1258 which was deferred to the 41<sup>st</sup> Legislative Day.

Respectfully submitted,  
Mark K. Willadsen, Chair

1 Also MR. SPEAKER:

2 The Committee on Appropriations respectfully reports that it has had under consideration  
3 HB 1106, which was reconsidered, and returns the same with the recommendation that said bill  
4 do NOT pass.

5 Respectfully submitted,  
6 Dean Wink, Chair

7 Also MR. SPEAKER:

8 The Committee on Transportation respectfully reports that it has had under consideration  
9 SB 102 and returns the same with the recommendation that said bill do pass and be placed on  
10 the consent calendar.

11 Also MR. SPEAKER:

12 The Committee on Transportation respectfully reports that it has had under consideration  
13 HB 1111 and returns the same with the recommendation that said bill be amended as follows:

14 1111fa

15 On page 3, line 10, of the printed bill, delete "one" and insert "ninety".

16 On page 3, line 11, delete "hundred eighty".

17 And that as so amended said bill do pass.

18 Respectfully submitted,  
19 Mike Verchio, Chair

20 **MESSAGES FROM THE SENATE**

21 MR. SPEAKER:

22 I have the honor to return herewith HB 1069 which has passed the Senate without change.

23 Also MR. SPEAKER:

24 I have the honor to return herewith HB 1154 which has been amended by the Senate and  
25 your concurrence in the amendments is respectfully requested.

1 Also MR. SPEAKER:

2 I have the honor to transmit herewith SB 25, 46, 70, 87, 161, 162, and 168 which have  
3 passed the Senate and your favorable consideration is respectfully requested.

4 Also MR. SPEAKER:

5 I have the honor to transmit herewith SCR 3 which has been adopted by the Senate and  
6 your concurrence is respectfully requested.

7 Respectfully,  
8 Fee Jacobsen, Secretary

9 **MOTIONS AND RESOLUTIONS**

10 Yesterday, Rep. Kloucek announced his intention to reconsider the vote by which HB 1084  
11 passed.

12 Rep. Kloucek moved that the House do now reconsider the vote by which HB 1084 passed.

13 The question being on Rep. Kloucek's motion to reconsider the vote by which HB 1084  
14 passed.

15 And the roll being called:

16 Yeas 23, Nays 46, Excused 0, Absent 1

17 Yeas:

18 Blake; Bolin; Dennert; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Hawley; Hunhoff  
19 (Bernie); Iron Cloud III; Jones; Killer; Kirschman; Kloucek; Lucas; Russell; Schaefer;  
20 Schrempp; Sigdestad; Street; Wismer

21 Nays:

22 Abdallah; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dryden; Greenfield;  
23 Haggard; Hansen (Jon); Hickey; Hoffman; Hubbel; Hunt; Jensen; Kirkeby; Kopp; Liss; Lust;  
24 Magstadt; Miller; Moser; Munsterman; Novstrup (David); Olson (Betty); Perry; Romkema;  
25 Rozum; Scott; Sly; Solum; Steele; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen;  
26 Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink; Speaker Rausch

27 Absent:

28 Nelson (Stace)

29 So the motion not having received an affirmative vote of a majority of the members-elect,  
30 the Speaker declared the motion lost.

1        SCR 3: A CONCURRENT RESOLUTION, Designating the month of November as COPD  
2        Awareness Month in the State of South Dakota.

3        Was read the first time and the Speaker waived the committee referral.

4        Rep. Lust moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on  
5        Friday, February 10, the 19<sup>th</sup> legislative day.

6        Which motion prevailed.

7                            **CONSIDERATION OF REPORTS OF COMMITTEES**

8        Rep. Lust moved that the reports of the Standing Committees on

9        State Affairs on HB 1138 as found on page 353 of the House Journal; also

10       State Affairs on HB 1213 as found on page 353 of the House Journal; also

11       State Affairs on HB 1227 as found on pages 353 and 354 of the House Journal; also

12       Judiciary on HB 1254 as found on pages 365 and 366 of the House Journal be adopted.

13       Which motion prevailed.

14       Rep. Romkema moved that the words "without recommendation" be stricken from the  
15       report of the Committee on Appropriations on HB 1211, that the words "do pass" be inserted,  
16       and that the bill be placed on the calendar of Friday, February 10, the 19<sup>th</sup> legislative day.

17       The question being on Rep. Romkema's motion that the words "without recommendation"  
18       be stricken from the report of the Committee on Appropriations on HB 1211, that the words "do  
19       pass" be inserted, and that the bill be placed on the calendar of Friday, February 10 the  
20       19<sup>th</sup> legislative day.

21       And the roll being called:

22       Yeas 61, Nays 9, Excused 0, Absent 0

1 Yeas:

2 Abdallah; Blake; Bolin; Boomgarden; Brunner; Conzet; Cronin; Deelstra; Dennert; Dryden;  
3 Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Hansen (Jon); Hawley; Hickey; Hoffman;  
4 Hubbel; Hunhoff (Bernie); Hunt; Iron Cloud III; Jensen; Jones; Killer; Kirkeby; Kirschman;  
5 Kloucek; Lucas; Lust; Magstadt; Miller; Moser; Munsterman; Nelson (Stace); Novstrup  
6 (David); Perry; Romkema; Rozum; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Street;  
7 Stricherz; Tornow; Tulson; Turbiville; Van Gerpen; Vanneman; Venner; Verchio; White; Wick;  
8 Willadsen; Wismer; Speaker Rausch

9 Nays:

10 Carson; Greenfield; Haggar; Kopp; Liss; Olson (Betty); Russell; Steele; Wink

11 So the motion having received an affirmative vote of a majority of the members-elect, the  
12 Speaker declared the motion carried, and HB 1211 was so placed.

### 13 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

14 SB 25: FOR AN ACT ENTITLED, An Act to provide for the creation of a new state  
15 accountability system and a new financial accountability rating system for public elementary and  
16 secondary schools.

17 Was read the first time and referred to the Committee on Appropriations.

18 SB 46: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to purchase  
19 an airport structure for use by South Dakota State University and to make an appropriation  
20 therefor.

21 Was read the first time and referred to the Committee on Appropriations.

22 SB 70: FOR AN ACT ENTITLED, An Act to revise the procedures for filing referred laws,  
23 initiated constitutional amendments, and initiated measures and to revise certain election  
24 provisions and campaign finance requirements for referred laws, initiated constitutional  
25 amendments, and initiated measures.

26 Was read the first time and referred to the Committee on Local Government.

27 SB 87: FOR AN ACT ENTITLED, An Act to allow military spouses to receive  
28 unemployment compensation if they leave their jobs due to a spouse's military transfer.

29 Was read the first time and referred to the Committee on Commerce and Energy.

SB 161: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning public meetings held by teleconference or videoconference.

Was read the first time and referred to the Committee on State Affairs.

SB 162: FOR AN ACT ENTITLED, An Act to create certified technology parks and to provide certain financing mechanisms and bonding authority to enhance knowledge and tech-based economic development and to repeal certain provisions concerning certified technology parks.

Was read the first time and referred to the Committee on State Affairs.

SB 168: FOR AN ACT ENTITLED, An Act to revise the terms and expiration dates of appointees to certain boards and commissions.

Was read the first time and referred to the Committee on State Affairs.

## SECOND READING OF CONSENT CALENDAR ITEMS

SB 7: FOR AN ACT ENTITLED, An Act to repeal certain provisions allowing for the certification of technology parks and to allow public or private developers to apply for certification.

Was read the second time.

The question being "Shall SB 7 pass?"

And the roll being called:

Yeas 70, Nays 0, Excused 0, Absent 0

Yeas:

Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert; Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Haggar; Hansen (Jon); Hawley; Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Iron Cloud III; Jensen; Jones; Killer; Kirkeby; Kirschman; Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser; Munsterman; Nelson (Stace); Novstrup (David); Olson (Betty); Perry; Romkema; Rozum; Russell; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Steele; Street; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen; Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink; Wismer; Speaker Rausch

So the bill having received an affirmative vote of a majority of the members-elect, the Speaker declared the bill passed and the title was agreed to.

1           **SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

2           HB 1100: FOR AN ACT ENTITLED, An Act to revise the number of ownership acres  
3 necessary to qualify for certain big game hunting licenses to be used on a landowner's own  
4 property.

5           Was read the second time.

6           The question being "Shall HB 1100 pass as amended?"

7           And the roll being called:

8           Yeas 30, Nays 40, Excused 0, Absent 0

9           Yeas:

10       Bolin; Boomgarden; Brunner; Conzet; Elliott; Fargen; Gosch; Greenfield; Hansen (Jon);  
11       Hubbel; Hunhoff (Bernie); Iron Cloud III; Killer; Kirkeby; Kloucek; Miller; Moser;  
12       Munsterman; Nelson (Stace); Olson (Betty); Russell; Schrempp; Sigdestad; Sly; Solum; Steele;  
13       Tornow; Van Gerpen; Wink; Speaker Rausch

14       Nays:

15       Abdallah; Blake; Carson; Cronin; Deelstra; Dennert; Dryden; Feickert; Feinstein; Gibson;  
16       Haggar; Hawley; Hickey; Hoffman; Hunt; Jensen; Jones; Kirschman; Kopp; Liss; Lucas; Lust;  
17       Magstadt; Novstrup (David); Perry; Romkema; Rozum; Schaefer; Scott; Street; Stricherz;  
18       Tulson; Turbiville; Vanneman; Venner; Verchio; White; Wick; Willadsen; Wismer

19       So the bill not having received an affirmative vote of a majority of the members-elect, the  
20       Speaker declared the bill lost.

21       HB 1066: FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased  
22       persons who are indigent and the funeral expenses are the financial responsibility of the county.

23       Was read the second time.

24       The question being "Shall HB 1066 pass as amended?"

25       And the roll being called:

26       Yeas 70, Nays 0, Excused 0, Absent 0



1 Yeas:

2 Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert;  
3 Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Haggar; Hansen (Jon);  
4 Hawley; Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Iron Cloud III; Jensen; Jones;  
5 Killer; Kirkeby; Kirschman; Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser;  
6 Munsterman; Nelson (Stace); Novstrup (David); Olson (Betty); Perry; Romkema; Rozum;  
7 Russell; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Steele; Street; Stricherz; Tornow;  
8 Tulson; Turbiville; Van Gerpen; Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink;  
9 Wismer; Speaker Rausch

10 So the bill having received an affirmative vote of a majority of the members-elect, the  
11 Speaker declared the bill passed and the title was agreed to.

12 HB 1130: FOR AN ACT ENTITLED, An Act to revise the fee schedule for certain  
13 documents filed with the county register of deeds, to create a county and statewide fund for the  
14 purpose of modernizing and preserving records, and to distribute certain revenue.

15 Was read the second time.

16 The question being "Shall HB 1130 pass as amended?"

17 And the roll being called:

18 Yeas 57, Nays 12, Excused 1, Absent 0

19 Yeas:

20 Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Cronin; Deelstra; Dennert; Dryden;  
21 Elliott; Fargen; Feickert; Gibson; Greenfield; Haggar; Hawley; Hickey; Hoffman; Hubbel;  
22 Hunhoff (Bernie); Hunt; Iron Cloud III; Jones; Killer; Kirkeby; Kirschman; Lucas; Lust;  
23 Magstadt; Miller; Moser; Munsterman; Novstrup (David); Olson (Betty); Perry; Romkema;  
24 Rozum; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Steele; Street; Stricherz; Tulson;  
25 Turbiville; Van Gerpen; Vanneman; White; Wick; Willadsen; Wink; Wismer; Speaker Rausch

26 Nays:

27 Conzet; Feinstein; Gosch; Hansen (Jon); Jensen; Kloucek; Kopp; Liss; Russell; Tornow;  
28 Venner; Verchio

29 Excused:

30 Nelson (Stace)

31 So the bill having received an affirmative vote of a majority of the members-elect, the  
32 Speaker declared the bill passed and the title was agreed to.

1 HB 1187: FOR AN ACT ENTITLED, An Act to exempt health care sharing ministries  
2 from the provisions of the health insurance code.

3 Was read the second time.

4 The question being "Shall HB 1187 pass?"

5 And the roll being called:

6 Yeas 51, Nays 19, Excused 0, Absent 0

7 Yeas:

8 Bolin; Brunner; Conzet; Cronin; Deelstra; Dennert; Feickert; Feinstein; Gosch; Greenfield;  
9 Haggar; Hansen (Jon); Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Iron Cloud III;  
10 Jensen; Killer; Kirkeby; Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser;  
11 Munsterman; Nelson (Stace); Novstrup (David); Olson (Betty); Rozum; Russell; Schaefer;  
12 Schrempp; Sly; Solum; Steele; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen; Vanneman;  
13 Venner; Verchio; Wick; Wink; Speaker Rausch

14 Nays:

15 Abdallah; Blake; Boomgarden; Carson; Dryden; Elliott; Fargen; Gibson; Hawley; Jones;  
16 Kirschman; Perry; Romkema; Scott; Sigdestad; Street; White; Willadsen; Wismer

17 So the bill having received an affirmative vote of a majority of the members-elect, the  
18 Speaker declared the bill passed and the title was agreed to.

19 HB 1194: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
20 payment for rape and sexual offense examinations.

21 Was read the second time.

22 The question being "Shall HB 1194 pass?"

23 And the roll being called:

24 Yeas 70, Nays 0, Excused 0, Absent 0

25 Yeas:

26 Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert;  
27 Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Haggar; Hansen (Jon);  
28 Hawley; Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Iron Cloud III; Jensen; Jones;  
29 Killer; Kirkeby; Kirschman; Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser;  
30 Munsterman; Nelson (Stace); Novstrup (David); Olson (Betty); Perry; Romkema; Rozum;  
31 Russell; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Steele; Street; Stricherz; Tornow;  
32 Tulson; Turbiville; Van Gerpen; Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink;  
33 Wismer; Speaker Rausch

1 So the bill having received an affirmative vote of a majority of the members-elect, the  
2 Speaker declared the bill passed and the title was agreed to.

3 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

4 SB 27: FOR AN ACT ENTITLED, An Act to revise disciplinary action remedies of the  
5 Cosmetology Commission.

6 Was read the second time.

7 27fb

8 Rep. Hubbel moved that SB 27 be amended as follows:

9 On page 1, line 13, of the printed bill, delete "two thousand" and insert "one thousand".

10 On page 1, line 14, delete "five thousand" and insert "two thousand five hundred".

11 Which motion lost.

12 The question being "Shall SB 27 pass?"

13 And the roll being called:

14 Yeas 35, Nays 34, Excused 1, Absent 0

15 Yeas:

16 Abdallah; Blake; Brunner; Cronin; Dennert; Elliott; Fargen; Feickert; Gibson; Hawley; Hickey;  
17 Hunhoff (Bernie); Iron Cloud III; Jones; Killer; Kirschman; Lucas; Lust; Miller; Moser;  
18 Novstrup (David); Perry; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Street; Van  
19 Gerpen; Vanneman; White; Wick; Willadsen; Wismer

20 Nays:

21 Bolin; Boomgarden; Carson; Conzet; Deelstra; Dryden; Gosch; Greenfield; Haggard; Hansen  
22 (Jon); Hoffman; Hubbel; Hunt; Jensen; Kirkeby; Kloucek; Kopp; Liss; Magstadt; Munsterman;  
23 Nelson (Stace); Olson (Betty); Romkema; Rozum; Russell; Steele; Stricherz; Tornow; Tulson;  
24 Turbiville; Venner; Verchio; Wink; Speaker Rausch

25 Excused:

26 Feinstein

27 So the bill not having received an affirmative vote of a two-thirds majority of the members-  
28 elect, the Speaker declared the bill lost.

1        There being no objection, the House reverted to Order of Business No. 5.

## 2 REPORTS OF STANDING COMMITTEES

3 MR. SPEAKER:

4       The Committee on Local Government respectfully reports that it has had under  
5       consideration HB 1122, 1230, and 1247 and returns the same with the recommendation that said  
6       bills do pass.

7 Also MR. SPEAKER:

8       The Committee on Local Government respectfully reports that it has had under  
9       consideration HB 1179 and returns the same with the recommendation that said bill be amended  
10      as follows:

11 1179tb

12 On page 1, line 7, of the printed bill, delete "municipal offices and".

13 On page 1, line 8, delete "and second".

14 On page 1, line 9, delete "municipality" and insert "municipal".

15 On page 1, line 13, after "questions" insert "or elections for municipal offices".

16 On page 2, line 4, delete "municipal".

17 On page 2, line 4, after "or" insert "county, municipal, or school district".

18 On page 2, line 10, delete "office or ballot questions" and insert "ballot question".

19 On page 2, line 12, delete "office or".

20 On page 2, line 24, delete "office" and insert "ballot question".

21 On page 3, line 3, delete "delegate" and insert "direct".

On page 3, delete line 4, and insert "chapter be electronically filed with the secretary of state, rather than being filed with the county, municipality, school district, or other political subdivision.".

1 On page 3, after line 4, insert:

2 " Section 4. That chapter 12-27 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Nothing is this chapter prevents any political subdivision from adopting additional standards  
5 or requirements relating to campaign finance for elections held under the political subdivision's  
6 own jurisdiction that are more stringent than the provisions of this title."

7 And that as so amended said bill do pass.

8 Also MR. SPEAKER:

9 The Committee on Local Government respectfully reports that it has had under  
10 consideration HB 1250 and returns the same with the recommendation that said bill do NOT  
11 pass.

12 Also MR. SPEAKER:

13 The Committee on Local Government respectfully reports that it has had under  
14 consideration HB 1008 and 1135 which were tabled.

15 Respectfully submitted,  
16 Mark Kirkeby, Chair

17 Also MR. SPEAKER:

18 The Committee on Legislative Procedure respectfully reports that HB 1011 and 1056 ~~and~~  
19 ~~HJR 1001~~ were delivered to his Excellency, the Governor, for his approval at 8:45 a.m.,  
20 February 9, 2012.

21 Also MR. SPEAKER:

22 The Committee on Legislative Procedure respectfully reports that HJR 1001 was delivered  
23 to his Excellency, the Secretary of State, for filing at 8:45 a.m., on February 9, 2012.

24 (Journal correction: See page 499 of the House Journal.)

25 Also MR. SPEAKER:

26 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing  
27 and Enrolling has carefully compared HB 1069 and finds the same correctly enrolled.

28 Respectfully submitted,  
29 Val Rausch, Chair

**SIGNING OF BILLS**

The Speaker publicly read the title to

HB 1069: FOR AN ACT ENTITLED, An Act to increase the amount of income and principal of a perpetual fund used to maintain a cemetery.

SB 3: FOR AN ACT ENTITLED, An Act to revise the composition of the state trunk highway system.

SB 16: FOR AN ACT ENTITLED, An Act to define a final stage manufacturer dealer and to provide for licensing of final stage manufacturer dealers.

SB 17: FOR AN ACT ENTITLED, An Act to require certain fuel tax returns and reports to be filed by electronic means and to require certain fuel taxes to be remitted by electronic transfer.

SB 26: FOR AN ACT ENTITLED, An Act to revise certain requirements pertaining to earnest money paid in a cooperative or cobrokerage real estate transaction.

SB 28: FOR AN ACT ENTITLED, An Act to revise provisions regarding the renewal process for certain third party insurance administrators.

SB 55: FOR AN ACT ENTITLED, An Act to update certain provisions pertaining to motor carrier safety and transportation of hazardous materials.

And signed the same in the presence of the House.

**COMMEMORATIONS**

HC 1014 Introduced by: Representatives Kloucek, Blake, Bolin, Feickert, Feinstein, Gibson, Hansen (Jon), Hawley, Hickey, Hunt, Iron Cloud III, Jones, Killer, Kirschman, Lucas, Munsterman, Nelson (Stace), Olson (Betty), Rausch, Romkema, Russell, Schrempp, Sigdestad, Sly, Steele, Street, Vanneman, White, and Wismer and Senators Hunhoff (Jean), Begalka, Bradford, Buhl, Frerichs, Gray, Haverly, Hundstad, Juhnke, Lederman, Novstrup (Al), Putnam, Rave, Rhoden, Sutton, Tieszen, and Vehle

A LEGISLATIVE COMMEMORATION, Commending and honoring Dennis Povondra, business manager at Bon Homme 4-2 School District, on his retirement after thirty-six years of exceptional service.

WHEREAS, Dennis Povondra was educated in the Bon Homme School District, graduated from Tabor High School in 1966, and graduated from Southern State College in Springfield in 1970 with a degree in business education; and

1 WHEREAS, Dennis was an outstanding business manager for the Bon Homme School  
2 district from 1975 until 2011, always looking out for the best interests of the Bon Homme  
3 schools, especially during the difficult financial times; and before that was a business educator  
4 in Gregory from 1970 until 1975; and

5 WHEREAS, Dennis saw many changes in the Bon Homme School District during his time  
6 there, including transitions in the school superintendent's office, increases in the size of the  
7 schools, and the advent of computer labs; and he was very instrumental in working with Bill and  
8 Jeanne Hoch in developing the Hoch Fitness Center; and

9 WHEREAS, Dennis, with the generous support of his wife, Sherry, and his son, Mark, has  
10 been the publicity chairperson for Tabor Czech Days for many years:

11 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of  
12 the State of South Dakota, that Dennis Povondra be honored and commemorated for his  
13 outstanding lifetime commitment to public education in South Dakota, and that he be wished  
14 well in his retirement.

15 HC 1015 Introduced by: Representatives Kloucek, Blake, Brunner, Dennert, Elliott,  
16 Fargen, Feickert, Feinstein, Gibson, Hansen (Jon), Hawley, Hickey, Hunhoff (Bernie), Hunt,  
17 Iron Cloud III, Jones, Killer, Kirschman, Lucas, Munsterman, Nelson (Stace), Rausch, Russell,  
18 Schaefer, Schrempp, Sigdestad, Sly, Steele, Street, Vanneman, and Wismer and Senators  
19 Hunhoff (Jean), Begalka, Bradford, Buhl, Cutler, Frerichs, Gray, Haverly, Hundstad, Lederman,  
20 Maher, Novstrup (Al), Putnam, Rave, Rhoden, Sutton, Tidemann, Tieszen, and Vehle

21 A LEGISLATIVE COMMEMORATION, Celebrating and honoring Tabor's Annual Czech  
22 Days Festivities on the occasion of its sixty-fourth anniversary on June 14, 15, 16, 2012.

23 WHEREAS, Czech immigrants have enriched South Dakota culture with their exceptional  
24 and traditional achievements in music, literature, and art, and are known for their love of  
25 agriculture, mechanical arts, and democracy, which they strive to preserve for future  
26 generations; and

27 WHEREAS, this year's Czech Days Royalty are Queen Emily Manas, daughter of Mike and  
28 Melanie Manas of Lesterville, South Dakota; Princess Jenna Lammers, daughter of Dave and  
29 Lori Lammers of Hartington, Nebraska; and Prince Matthew Schaeffer, son of Dan and Mary  
30 Jane Schaeffer of Fordyce, Nebraska; and

31 WHEREAS, Czech Days offers a variety of exhibits, attractions, events, and entertainment,  
32 including the Czech Heritage Museum; Blachnik Museum; St. Wenceslaus Church; programs  
33 for adults and children in Sokol Park; live Czech music in Beseda Hall; an authentic mini Czech  
34 pioneer village; a variety of Czech foods, including kolaches; kolache baking demonstrations;  
35 adult and youth parades; two beer gardens; a quilt show; a craft fair; a baseball game; and the  
36 Rich Schild Memorial Fireworks Display to start the celebration on the evening of June 14<sup>th</sup>:

37 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of  
38 the State of South Dakota, that the Legislature congratulates all South Dakotans of Czech

ancestry and invites everyone to participate in the sixty-fourth Tabor Czech Days celebration on June 14, 15, 16, 2012.

HC 1016 Introduced by: Representatives Kloucek, Blake, Bolin, Brunner, Deelstra, Dennert, Feickert, Feinstein, Gibson, Hickey, Iron Cloud III, Jones, Kirschman, Lucas, Nelson (Stace), Romkema, Rozum, Schrempp, Scott, Sigdestad, and Wismer and Senators Putnam, Begalka, Bradford, Buhl, Frerichs, Frysliie, Gray, Lederman, and Sutton

A LEGISLATIVE COMMEMORATION, Commending and honoring Avon Elementary School as a National Blue Ribbon school for outstanding academic achievement.

WHEREAS, Avon Elementary School ranked among the highest performing schools in the state of South Dakota with their student performances on state assessments tests; and

WHEREAS, a National Blue Ribbon School Ceremony took place on November 21, 2011, at Avon Elementary School; and

WHEREAS, congratulations are due to the Avon Elementary School staff for their hard work and team effort toward academic excellence, especially to kindergarten teacher Dawn Kocmich, first grade teacher Benita Kuhlman, second grade teacher Tina Cameron, third grade teacher Loretta Knodel, fourth grade teacher Amy Cooper, fifth grade teacher Beth Dykstra, and sixth grade teacher Shelly Poppe for their hard work; and

WHEREAS, Dr. Melody Schopp, the South Dakota Secretary of Education, was the keynote speaker at a public ceremony honoring Avon Elementary School staff for their academic excellence in obtaining the award. Representative Frank Kloucek also spoke at the ceremony honoring the school for its milestone achievement; and

WHEREAS, Tina Cameron and Loretta Knodel traveled to Washington, D.C., to accept the award on behalf of Avon Elementary School:

NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of the State of South Dakota, that the Avon Elementary School be commended and honored for this outstanding lifetime commitment to quality public education in South Dakota.

HC 1017 Introduced by: Representatives Kloucek, Blake, Fargen, Feickert, Gibson, Hansen (Jon), Hickey, Hunhoff (Bernie), Hunt, Iron Cloud III, Jones, Killer, Kirschman, Lucas, Munsterman, Nelson (Stace), Rausch, Russell, Schrempp, Sigdestad, Sly, Steele, and Vanneman and Senators Putnam, Begalka, Buhl, Frerichs, Gray, Hunhoff (Jean), Maher, Schlekeway, Tieszen, and Vehle

A LEGISLATIVE COMMEMORATION, Honoring and commending the twenty-fifth annual Menno Pioneer Power Show.



1 WHEREAS, the Menno Pioneer Power Show was once a small gathering in the Menno city  
2 park. As years have gone by the event has become larger and even more special. The gathering  
3 is now a historic event with attendees from all fifty states and many countries; and

4 WHEREAS, the annual event is held the third weekend in September and consists of steam  
5 engines; toy shows; ladies nail-driving contest; Worthington diesel steam engine; corn shelling,  
6 blowing, shredding, cutting, binding, and chopping; kettle corn; black smithing; and games for  
7 the children. The annual event features two antique tractor and car parades. The twenty-fifth  
8 annual event took place at Pioneer Acres on the northern outskirts of Menno on  
9 September 24-25, 2011; and

10 WHEREAS, other attractions include antique tractor pull, mini hot rod pull, children's pedal  
11 tractor pull, antique pickups and cars, a petting zoo, bale throwing, community rummage sale,  
12 workers church service, Murray Corlis stationary steam engine, a 1884 school house railway  
13 depot and section car, sawmill, crafts, historic buildings, steam threshing, flour mill, ladies'  
14 building, pancake and sausage feed, and Sunday morning church services; and

15 WHEREAS, Menno Pioneer Power Show provides family fun for everyone and is a great  
16 family oriented event highlighting South Dakota rural heritage and will be held again on  
17 September 22-23, 2012:

18 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-seventh Legislature of  
19 the State of South Dakota, that the Menno Pioneer Power Show be honored and commemorated  
20 on its twenty-fifth annual show which took place on September 24-25, 2011.

21 Rep. Hoffman moved that the House do now adjourn, which motion prevailed and at  
22 3:41 p.m. the House adjourned.

23 Karen Gerdes, Chief Clerk